

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Grady Ashe, Sr., a/k/a Grady Ashe,)	Civil Action No.: 8:07-3634-RBH-BHH
)	
Plaintiff,)	
)	
vs.)	
)	<u>REPORT AND RECOMMENDATION</u>
Corporal NFN Thomas, Mail)	<u>OF MAGISTRATE JUDGE</u>
Supervisor, Dorchester County)	
Detention Center,)	
)	
Defendant.)	

The plaintiff this action seeking relief pursuant to Title 42, United States Code, Section 1983. On February 22, 2008, the defendant filed a motion for summary judgment. By order of this court filed February 25, 2008, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Instead of responding to the motion for summary judgment, the plaintiff filed his own motion for summary judgment based upon a procedural issue. Specifically, the plaintiff contends he is entitled to summary judgment because he alleges the defendant's summary judgment motion was untimely. However, the plaintiff did not address the merits of the defendant's summary judgment motion.

As the plaintiff is proceeding *pro se*, the court filed a second order on April 28, 2008, giving the petitioner through May 21, 2008, to file his response to the motion for summary judgment. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff elected not to respond.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution.

pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce H. Hendricks
United States Magistrate Judge

May 27, 2008

Greenville, South Carolina Carolina